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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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June 14, 1994

94-123

By Hand

William Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Re: First Media Corporation, MMB File No. 900418A  
Channel 41, Inc., MMB File No. 870622A  
Hubbard Broadcasting, Inc., MMB File No. 920117A

Dear Mr. Caton:

On behalf of NATPE International, enclosed please find an original and four (4) copies of its Comments filed in the above referenced proceedings.

Please direct any questions regarding this matter to the undersigned.

Sincerely,



Michael R. Gardner  
Counsel for NATPE International

Enclosures

cc Service List

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

_____	)	
In the Matter of	)	
	)	
Petitions, Applications and Related	)	MMB File No. 900418A
Pleadings Regarding the Prime Time	)	MMB File No. 870622A
Access Rule, Section 73.658(k) of	)	MMB File No. 920117A
the Commission's Rules	)	
_____	)	

**COMMENTS OF NATPE INTERNATIONAL**

NATPE International ("NATPE"), by its attorneys, hereby files comments in response to the Public Notice released by the Commission on April 12, 1994, seeking comment on pleadings which have been filed by First Media Corporation, Channel 41, Inc. and Hubbard Broadcasting, Inc challenging the Prime Time Access Rule ("PTAR").

NATPE's 2,100 members are intimately involved in all aspects of the global entertainment industry, including the production, distribution, programming and syndication of both broadcast and cable programming. Through its diverse membership, NATPE is the single international organization which represents programmers of all types who collectively provide the software that is vital to the realization of the domestic and global Information Superhighway.

NATPE urges the Commission to be thoughtful and judicious in any examination and potential modification of the PTAR — a Rule which has

played a vital role in propelling the United States programming community into the leadership role in the global marketplace. By promoting the growth of independent program suppliers and independent television stations, the PTAR has succeeded in increasing program diversity for television viewers while fueling competition in the domestic and international program production arenas. The Rule has also contributed to the Commission's goal of diversity in programming, not simply because of the non-network programming aired in the access period in the top 50 markets, but by virtue of the diverse programming that local stations produce and air in non-prime time hours, often with the added revenues that are generated with PTAR-related programming.

If the Commission, after reviewing the comments and reply comments filed in response to the filings of First Media, Channel 41 and Hubbard, believes that a change in the PTAR may be warranted, NATPE urges the Commission to begin any reexamination of the PTAR with the adoption of a Notice of Inquiry that would clearly set forth the range of regulatory options under consideration.<sup>1</sup> By following the deliberative procedure of a Notice

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<sup>1</sup> The Commission has suggested that it may follow up the current proceeding involving the PTAR petitions by commencing a rulemaking proceeding addressing the PTAR. See "Answer of Federal Communications Commission to Petition for a Writ of Mandamus," ("FCC Answer") at page 9, March 23, 1994, In Re First Media, L.P., Case No. 94-1080 (D.C. Cir.). As the Commission stated:

That proceeding would explore the public interest implications of the rule, the continuing need for such a provision in view of

of Inquiry articulating the regulatory options, followed by a Notice of Proposed Rulemaking, if warranted, the Commission would provide sufficient time for interested parties to fully examine and comment on the public policy and commercial implications of the possible changes to this important rule. If the FCC does in fact adopt an NOI which identifies the range of regulatory options under consideration, NATPE would then conduct a survey of its members to assess their views on those specific options, and then provide the results of that survey to the Commission as part of the proceeding. In view of the PTAR's important role in fostering the growth and economic well-being of many of NATPE's member companies during the past 20 years, NATPE's survey should provide the Commission with a reliable and current measure of the sentiment from this diverse industry group whose members are directly affected by the PTAR and therefore can comment with experience on the PTAR's relevance in the context of today's explosive video marketplace.

### **Conclusion**

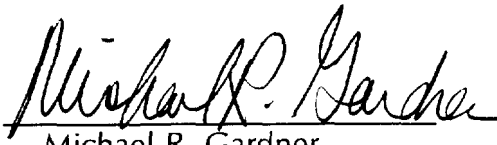
Accordingly, as set forth above, NATPE urges the Commission to be judicious in its reexamination of the PTAR, and that any proposal to modify the Rule be part of a deliberative rulemaking that commences with a Notice

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changes in the television programming marketplace that have taken place since the rule was adopted, the constitutional challenges that have been raised by First Media and other matters that may be raised in the comments on the First Media and other petitions.

of Inquiry and provides interested parties such as NATPE with sufficient opportunity to examine the specific regulatory options contemplated by the Commission.

Respectfully submitted,  
NATPE International

By: 

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William J. Gildea, III

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June 14, 1994

## CERTIFICATE OF SERVICE

I, Robert E. Aguas, do hereby certify that true and correct copies of the foregoing Comments were served this 14th day of June 1994, by hand, upon the following:

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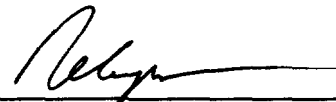
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